

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	
)	
JAMES A. KNAUER, CHAPTER 11)	
TRUSTEE OF EASTERN LIVESTOCK CO.,)	
LLC)	
)	
Plaintiff,)	Adv. Proc. No.
)	
v.)	
)	
JENNIFER A. BERG, and)	
JENNY-ANN ENTERPRISES,)	
)	
Defendants.)	

COMPLAINT

James A. Knauer, as Chapter 11 Trustee for Eastern Livestock Co., LLC, by counsel, for his complaint against Jennifer A. Berg and Jenny-Ann Enterprises (collectively "Defendants"), states as follows:

Jurisdiction and Parties

1. The above-captioned adversary proceeding (the "Adversary Proceeding") arises in and is related to the above-captioned bankruptcy case (the "Chapter 11 Case"), which is currently pending under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

2. This Adversary Proceeding is brought pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure.

3. This Court has jurisdiction over the subject matter of this Adversary Proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

4. This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b), (e), (f), and (h).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409(b).

6. Pursuant to S.D. Ind. B-7008-1, the Trustee hereby consents to entry of final orders or judgments by the Bankruptcy Judge.

7. Eastern Livestock Co., LLC ("ELC" or "Debtor") was one of the largest cattle dealers in the United States, with operations and assets located in at least eleven states. ELC was headquartered in New Albany, Indiana, with branch locations across several states.

8. Certain petitioning creditors commenced the Chapter 11 Case on December 6, 2010 (the "Petition Date"), by filing an involuntary petition for relief under the Bankruptcy Code. The Bankruptcy Court entered the Order For Relief in An Involuntary Case and Order to Complete Filing on December 28, 2010.

9. On December 28, 2010, James A. Knauer ("Plaintiff" or "Trustee") was appointed as the Chapter 11 Trustee for ELC.

10. Defendant Jennifer A. Berg is a South Dakota resident, residing at 27723 Elbow Canyon Road, Edgemont, South Dakota 57735-7600.

11. Jennifer A. Berg is a "person" as defined in Section 101(41) of the Bankruptcy Code.

12. Defendant Jenny-Ann Enterprises is a Wyoming corporation with its principal place of business located at 2945 State Highway 154, Veteran, Wyoming 82243.

13. Jenny-Ann Enterprises is a "person" as defined in Section 101(41) of the Bankruptcy Code residing in and/or conducting business in the United States.

General Allegations

14. On or about April 30, 2008, Jennifer A. Berg, individually and on behalf of Jenny-Ann Enterprises, executed and delivered to ELC a Promissory Note whereby Defendants promised to pay to ELC the original principal sum of \$615,959.60 with interest thereon from the date of execution until paid at a rate of one percent (1.00%) above the Prime rate per annum ("Note"). A true and accurate copy of the Note is attached hereto as **Exhibit A**.

15. The Trustee is entitled to enforce the payment of the Note on behalf of the bankruptcy estate of ELC.

16. The Note is payable "ON DEMAND," and the Trustee hereby demands payment of the Note with interest.

17. Pursuant to the demand, the Note has matured and the entire Note Balance (as defined below) is immediately due and payable.

18. As of March 26, 2013, the amount due and owing to ELC under the Note is as follows:

Current Principal:	\$	615,959.60
Accrued Interest:	\$	136,091.93
TOTAL DUE:		\$ 752,051.53

plus all interest accruing after March 26, 2013, and all expenses and attorneys' fees incurred by the Trustee (the "Note Balance").

COMPLAINT ON NOTE

19. The Trustee incorporates the preceding paragraphs by reference.

20. Defendants are in default of payment of the Note for failure to pay upon demand as described above.

21. The Trustee demands immediate payment in full.

22. Defendants have failed or neglected to pay the indebtedness as evidenced by the Note.

23. As a result of Defendants' default, ELC has suffered damages.

THEREFORE, the Plaintiff requests that the Bankruptcy Court enter judgment in its favor and against Defendants, jointly and severally, as follows:

A. Enter judgment against Defendants, jointly and severally, in the amount of the Note Balance of \$752,051.53 as of March 26, 2013, plus all additional accrued and accruing interest, charges and other fees and expenses, all as provided for under the Note;

B. Award the Trustee costs and attorneys' fees as provided in the Note and by law; and

C. Such other and further relief as is necessary and proper.

Respectfully submitted,

KROGER, GARDIS & REGAS, LLP

By: /s/ Jay P. Kennedy
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